

Message Text

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ORIGIN ARA-10

INFO OCT-01 ISO-00 SEC-01 EB-07 COME-00 L-03 /022 R

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APPROVED BY ARA/CAR:JETHYDEN

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FM SECSTATE WASHDC

TO AMEMBASSY NASSAU IMMEDIATE

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E.O. 11652: N/A

TAGS:CFED, EFIN, BF

SUBJECT: SEC INVESTIGATION OF IDC

1. SEC HAS REQUESTED THAT DEPARTMENT FORWARD FOLLOWING LETTER TO ECONOMIC OFFICER GENTA HAWKINS. ORIGINAL POUCHED TODAY.

2. "AS I ADVISED YOU IN OUR CONVERSATION ON FRIDAY, SEPTEMBER 10, 1976, THE STAFF OF THE COMMISSION IS DISCUSSING A PROPOSED SETTLEMENT WITH INTERCONTINENTAL DIVERSIFIED CORP. ("IDC") AND, IN THAT REGARD, IS WILLING TO FOREGO THE APPOINTMENT BY IDC OF A SPECIAL COUNSEL TO CONDUCT AN INVESTIGATION UNDER CERTAIN CONDITIONS AS SET FORTH BELOW. IN LIEU OF AN INDEPENDENT INVESTIGATION CONDUCTED BY THE SPECIAL COUNSEL, THE COMMISSION MUST BE PERMITTED TO CONDUCT AN INVESTIGATION INTO MATTERS COVERED BY THE COMMISSION'S FORMAL ORDER OF PRIVATE INVESTIGATION, AND OTHER SIMILARLY RELATED MATTERS. IN THIS CONNECTION, OFFICIALS OF IDC HAVE PREVIOUSLY REPRESENTED TO THE STAFF OF THE COMMISSION THAT THERE ARE NO OTHER MATTERS WHICH DIRECTLY OR INDIRECTLY INVOLVE CONDUCT OF A NATURE COVERED BY THE FORMAL ORDER EXCEPT TO THE EXTENT THAT THESE MATTERS HAVE BEEN PREVIOUSLY

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DISCLOSED TO THE COMMISSION. WE WOULD INSIST ON RECEIVING

APPROPRIATE AFFIDAVITS FROM CORPORATE OFFICIALS AND AGENTS OF IDC CONFIRMING THESE REPRESENTATIONS.

WITH RESPECT TO THE FACTS UNCOVERED TO DATE IN THE COMMISSION'S INVESTIGATION, IT WILL BE NECESSARY FOR THE COMMISSION STAFF TO EXAMINE AND OBTAIN ACCESS TO AND RETAIN COPIES OF ALL RELEVANT DOCUMENTATION INCLUDING DOCUMENTS IN THE POSSESSION OF PRICE-WATERHOUSE AND CO., AS WELL AS IDC, PRIOR TO ANY RESOLUTION OF THIS MATTER. IT WILL BE IMPOSSIBLE TO ARRIVE AT A SETTLEMENT OF THIS MATTER UNTIL THESE MATERIALS ARE SUPPLIED. IN THE EVENT THAT THESE DOCUMENTS AND OTHER INFORMATION CONFIRM THE INFORMATION PREVIOUSLY PROVIDED BY IDC, WE ARE PREPARED TO RECOMMEND TO THE COMMISSION A RESOLUTION OF THIS MATTER IN THE FORM OF AN INJUNCTIVE DECREE AND CONSENT AS HAS BEEN PREVIOUSLY DISCUSSED.

3. IT MUST BE UNDERSTOOD THAT THE COMMISSION'S AGREEMENT TO THE PROPOSED SETTLEMENT WILL IN NO WAY IMPAIR THE ABILITY OF THE COMMISSION TO OBTAIN ANY INFORMATION REGARDING THIS MATTER FROM ANY OTHER SOURCE FOR ANY PURPOSE INCLUDING LITIGATION AGAINST ANY OTHER PARTY. MOREOVER, NEITHER IDC NOR ANYONE ELSE HAS RECEIVED ANY ASSURANCE FROM THE COMMISSION REGARDING ANY POTENTIAL ACTION IN ANY OTHER FORUM AGAINST ANY INDIVIDUALS FOR CONDUCT ARISING OUT OF THIS MATTER. IT WILL BE NECESSARY FOR IDC TO PROVIDE ASSURANCES TO THE COMMISSION THAT THE COMMISSION WILL BE PERMITTED TO OBTAIN CONTINUING ACCESS TO ALL OTHER RELEVANT DOCUMENTATION CONCERNING THE SUBJECT MATTER OF THE INJUNCTIVE ACTION SUBSEQUENT TO THE INSTITUTION OF SUCH ACTION.

THE STAFF OF THE COMMISSION BELIEVES THAT THIS EFFORT REPRESENTS A SUBSTANTIAL CONCESSION IN ITS NEGOTIATIONS WITH IDC AND WE ARE HOPEFUL THAT THIS APPROACH WILL ADVANCE AN EXPEDITED RESOLUTION OF THIS MATTER. IT SHOULD BE UNDERSTOOD THAT THE FOREGOING REPRESENTS ONLY LIMITED OFFICIAL USE

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A PROPOSAL OF THE STAFF OF THE COMMISSION BUT IN THE EVENT AN AGREEMENT IS ARRIVED AT, THE STAFF WOULD BE WILLING TO RECOMMEND SUCH AN APPROACH TO THE COMMISSION. WE WOULD BE GLAD TO EXPLAIN THE ABOVE IN MORE DETAIL TO EITHER YOURSELF, THE COMPANY, OR REPRESENTATIVES OF THE GOVERNMENT OF THE BAHAMAS IN THE EVENT FURTHER EXPLANATION IS REQUIRED. SIGNED: EDWARD D. HERLIHY, BRANCH CHIEF." ROBINSON

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